RECENT DEVELOPMENTS ON THE ISSUE OF APARTHEID IN SOUTH AFRICA (II)[1]

"Violence serves no useful political end, and most certainly is not conducive to peace and stability."

United Nations Secretary-General Boutros Boutros-Ghali, speaking on the International Day of Solidarity with the Struggling People of South Africa (SOWETO Day), 16 June 1992.

In the past several months, the negotiation process has been greatly aggravated by a wave of political violence in South Africa which has resulted in a heavy loss of human lives. While appealing for the cessation of violence, the international community maintains that negotiation remains the only viable means to peace and democracy for South Africa, as presented by the Chairman of the Special Committee against Apartheid, Ambassador Ibrahim A. Gambari, in his statement to the General Assembly on 1 December 1992:

"One thing is certain: no time should be wasted in resuming the negotiation process among all parties . . . What is clear in the immediate future is that any further delay in bringing about a political settlement could be disastrous. The opportunity for such a settlement that generations of South Africans have made possible through their struggle and their suffering, with unswerving support from the United Nations, surely must not be missed."

VIOLENCE

Political violence has become a commonplace occurrence in the lives of South Africans. Over the last six years, at least 11,000 people have died as a result of violence in South Africa. Since February 1990, when the South African Government released Mr. Nelson Mandela, President of the African National Congress of South Africa (ANC) from prison, more than 6,500 people—primarily Blacks—have been killed in that country. Despite signing of the National Peace Accord in September 1991 and the convening of the Convention for a Democratic South Africa (CODESA) in December 1991, township violence has persisted.

As reported by the Human Rights Commission of South Africa, between January and June 1992, 1,806 people were killed and 2,931 injured. In June 1992 alone, there were 373 deaths and 395 injuries. In July, 329 persons were killed in political violence. On 4 August, at least 17 persons were killed in scattered incidents of violence and fighting. During 1992, 129 policemen were killed.

On 17 June 1992, more than 40 men, women and children in the township of **Boipatong** near Johannesburg were killed by unknown assailants, alleged by witnesses to be supporters of the Inkatha Freedom Party (IFP) and assisted by members of the police. While the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation (known as the Goldstone Commission) reported there was no evidence of police collusion in the killing, it faulted the South African police for suffering from "organizational problems" such as inadequate command and control and lack of effective intelligence and contingency planning. On 20 June, faced with the escalation of violence, ANC formally suspended bilateral talks with the South African Government, and its participation in the negotiation process started within the framework of CODESA. Its second formal meeting, which was held on 15 and 16 May 1992, had not led to the agreements hoped for.

On 7 September, Ciskei soldiers killed 28 and wounded 200 demonstrators in **Bisho**, the capital of that "homeland". On 8 September, 18 hostel dwellers were shot dead at Thokozei Stadium.

[1] See UN Focus, "Recent Developments on the Issue of Apartheid in South Africa", DPI/1281, August 1992.

During the last week of October, more than 60 people were killed in the province of Natal, and four Whites were killed by a bomb in King William's Town. On 3 November, at least 18 Whites were wounded in a bomb explosion in Queenstown.

A recent report of the International Commission of Jurists concluded that if the violence were not stopped it would run out of control and become endemic, and there would be no winners. Violence is the most pressing problem which South Africa faces today, the Commission stated.

ATTEMPTS INSIDE SOUTH AFRICA TO CURB THE VIOLENCE

ANC, IFP and the South African Government were among the signatories to the National Peace Accord of 14 September 1991, which provides for a code of conduct for the security forces, a code of conduct for political parties and organizations, mechanisms to enforce these provisions and measures for the reconstruction and development of communities. A National Peace Committee was established to monitor the implementation of the Accord. The Government took another important step by appointing Judge Richard J. Goldstone as Chairman of the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation.

Since its establishment, the Goldstone Commission has issued two interim reports, in February and May 1992. While identifying the struggle for power between ANC and Inkatha as a main cause of political violence, the Commission pointed out that "the causes of the violence are many and complicated. They include economic, social and political imbalances amongst the people of South Africa. These are the consequences of three centuries of racial discrimination and over 40 years of extreme forms of racial and economic dislocations in consequence of the policy of apartheid."

In a statement released on 16 November 1992, Judge Goldstone made public that an investigation by the Commission had unearthed files on covert activities to be carried out by a military intelligence unit of the Government's security forces targeting a national liberation movement. Stating that the Commission lacks adequate resources and personnel, Judge Goldstone called on all political parties and groups in South Africa, in particular the Government, to authorize and empower the Commission to carry out urgently and fully an earlier recommendation of the Secretary-General to "undertake a series of investigations into the functioning and operations of certain agencies, *inter alia*, the army and police, the Umkontho we Sizwe (MK), the Azanian People's Liberation Army (APLA), the KwaZulu police and more generally, certain private security firms", as adopted by the Security Council in resolution 772 (1992) of 17 August 1992. He also called on the international community to assist in the speedy and efficient execution of that recommendation.

ORGANIZATION OF AFRICAN UNITY RESPONDS

ANC and the Pan-Africanist Congress of Azania (PAC), realizing that violence had become endemic, urged the Council of Ministers of the Organization of African Unity (OAU), at its summit meeting on 23 June 1992 at Dakar, Senegal, to call for an urgent meeting of the Security Council to examine the issue of violence in South Africa.

By resolution 1386, adopted by the African Heads of State or Government at the summit, the OAU condemned the escalation of violence in South Africa, especially the violence perpetrated against the population of Boipatong, and called for a full and public investigation of that incident as well as other acts of violence. It also called for the convening of an urgent meeting of the Security Council.

One of the recommendations the OAU made to the Security Council was that the United Nations become involved in exploring and creating conditions conducive to the resumption of negotiations, once the climate of violence and uncertainty had been removed, to secure South Africa's commitment to a peaceful political transition.

SECURITY COUNCIL RESPONDS

In response to the OAU request, the Security Council met on 15 and 16 July 1992 to consider the "question of South Africa". Condemnation of the incidences of violence was heard from all speakers during the Council's debate, including some participants in CODESA, the negotiation forum in South Africa. There was, however, a divergence of views as to who should be held responsible. An overwhelming majority of the speakers felt that the responsibility and accountability for political violence in South Africa should rest primarily with the current Government. Accepting the Government's primary responsibility for the maintenance of law and order, South Africa's Foreign Minister, Pik Botha, stated that ANC and IFP were also partly to be blamed.

After the two-day deliberations, the Security Council adopted by consensus resolution 765 (1992).[2] The resolution urged the South African authorities to take immediate measures to bring an effective end to the ongoing violence, called upon all the parties to cooperate in combating violence and invited the Secretary-General to appoint a Special Representative to South Africa to recommend, after discussion with the parties, "measures which would assist in bringing an effective end to the violence and in creating conditions for negotiations leading towards a peaceful transition to a democratic, non-racial and united South Africa".

APPOINTMENT OF CYRUS VANCE

Immediately after the adoption of that resolution, the Secretary-General appointed Mr. Cyrus Vance, former United States Secretary of State, as his Special Representative to South Africa and instructed him to undertake a mission there.

Mr. Vance visited South Africa from 22 to 31 July, and held several discussions with all major parties and political leaders. On 7 August, the Secretary-General issued a report to the Security Council on Vance's mission (S/24389). With regard to violence, the report recommended that the Goldstone Commission proposals be supported by the international community and be adopted by both the South African Government and the political parties.

The report further recommended that the National Peace Accord, which established a comprehensive framework to end violence and to facilitate socio-economic development and reconstruction, should be strengthened. To bolster the work of the National Peace Secretariat set up to help implement the National Peace Accord, the Secretary-General recommended that the United Nations make available some 30 observers to further the purposes of the Accord. The release of the remaining political prisoners would also help improve the political climate, the report further stated. Finally, the Secretary-General proposed that fact-finding missions for the Security Council be conducted on a quarterly basis and that the United Nations "remain seized of the matter" of South Africa.

UNITED NATIONS OBSERVER MISSION IN SOUTH AFRICA

By resolution 772 (1992),[3] adopted on 17 August, the Security Council authorized the Secretary-General to "deploy, as a matter of urgency, United Nations observers in South Africa, in such a manner and in such numbers as he determines necessary to address effectively the areas of concern noted in his report, in coordination with the structures set up under the National Peace Accord". On 9 September 1992, in consultations with the Security Council, the Secretary-General issued a directive to deploy 50 observers to the country. The United Nations Observer Mission in South Africa (UNOMSA), headed by Mrs. Angela King, began functioning in mid-September. The objective of the mission was to strengthen the structures of the National Peace Accord and end violence in the country. The mission was to coordinate its work and

[2]See annex A.

[3]See annex B.

cooperate with the National Peace Committee, the National Peace Secretariat and the Goldstone Commission. There would also be coordination between the Mission's observer team and those of the Commonwealth Secretariat, the European Community and the OAU.

FACT-FINDING MISSIONS BY SPECIAL ENVOYS OF THE SECRETARY-GENERAL

Paragraph 6 of Security Council resolution 772 (1992) requested the Secretary-General to report quarterly to the Security Council on the implementation of the resolution. In this connection, the Secretary-General, following consultations with the Government of South Africa and the parties, designated two Special Envoys to carry out separate missions to South Africa. Mr. Virendra Dayal, former United Nations Under-Secretary-General, visited South Africa from 16 to 27 September 1992. Ambassador Tom Vraalsen, Assistant Secretary-General of the Ministry of Foreign Affairs of Norway and former Permanent Representative of Norway to the United Nations, carried out a mission to South Africa from 22 November to 9 December 1992.

During their respective missions, the Special Envoys held discussions with senior Government officials and various parties. They also met with officials of the National Peace Committee and Secretariat; representatives of non-governmental organizations; and civic, religious, business, human rights and community groups, as well as with other international observer teams.

The findings of Mr. Dayal and Ambassador Vraalsen were incorporated into the Secretary-General's report of 22 December 1992 to the Security Council (S/25004), in which he observed that there was substantial agreement in South Africa to expedite arrangements for multi-party negotiations, which trend, he contended, should be encouraged by the international community. In the same report, the Secretary-General reiterated his call on all political leaders in South Africa to take immediate action to curb political violence and to cooperate fully and urgently with the Goldstone Commission. He also welcomed the agreement between President de Klerk and Mr. Mandela on 26 September 1992 and the subsequent release of political prisoners by 15 November 1992; and expressed his intention to send 10 additional observers to UNOMSA. Again, he urged the Security Council to "stay seized of the situation".

RESUMPTION OF NEGOTIATIONS

On 26 September 1992, following a three-month breakdown in negotiations, South African President Frederik de Klerk and Mr. Nelson Mandela resumed discussions. A Joint Record of Understanding[4] was issued by ANC and the Government, which contained agreements on issues relating to the securing of hostels, release of all remaining political prisoners and the prohibition of the carrying and display of dangerous weapons. Agreement was also reached on the need for a democratic constituent assembly/constitution-making body and constitutional continuity during the interim transitional period. Not having been included in the Government-ANC summit, Chief Mangosuthu Gatsha Buthelezi, President of IFP, on 27 September denounced the agreements of the Joint Record of Understanding as "illegitimate" and "unimplementable".

Exploratory discussions between PAC and the South African Government began in August. On 24 October, after a two-day summit at Gaborone, Botswana, PAC and the Government issued a joint statement. Among the common grounds reached by both were the peaceful resolution of political conflicts, the exerting of maximum effort to end violence, the need for a new non-racial constitution to be drawn up by a body elected on a common voters roll, the establishment of a more representational negotiating forum and the continuation of negotiations in the future.[5]

[4] See annex C.
[5] See annex D.

Other political parties have also initiated moves to gain acceptance and visibility in the political process. The Concerned South Africans Group (COSAG), composed of representatives from the homelands of KwaZulu, Bophuthatswana and Ciskei, Inkatha, the Conservative Party and Afrikaner Volksunie, met in Pretoria in December to discuss a new negotiating forum.

From 2 to 4 December 1992, a bilateral meeting, to be continued in January 1993, took place between ANC and Government delegations to discuss South Africa's transition to democracy. The ANC hoped that democracy negotiations could be speeded up to allow South Africa to hold its first all-race elections before the end of 1993.

On 10 December, President de Klerk met with leaders of KwaZulu, Bophuthatswana and Ciskei. In the meantime, the meeting scheduled for 9 December between the Government and PAC had been postponed, pending a clarification from PAC on the stand of its military unit regarding violence against Whites.

SPECIAL COMMITTEE AGAINST APARTHEID REPORTS TO GENERAL ASSEMBLY

This year's annual report of the Special Committee against Apartheid to the General Assembly (A/47/22) covers the period September 1991-September 1992.

For the period under review, the Special Committee noted that important developments continued to occur in South Africa towards a democratic and non-racial society. However, the political process remains vulnerable and fragile. In spite of the launching of CODESA I and II, negotiations have been hampered by repeated setbacks and delays, due in great part to persistent political violence. The report also noted that a sustained process to reach a peaceful, negotiated solution needs "not only political will and tolerance among the leadership involved in the negotiations, but also a climate of domestic peace in the society as a whole".

Socio-economic imbalances in education, employment, health, land distribution, housing etc., deeply rooted in decades of apartheid, still plague the majority of South Africans and threaten to undermine a peaceful and stable development through a transition period and beyond, the report continued. The severe effects of violence, the erosion of investor confidence, the worst drought in decades and recession in the world market were some of the major factors contributing to a weakened South African economy with dim prospects. In this regard, the Special Committee supports the establishment in South Africa of an economic negotiating forum that would begin constructive dialogue among trade unions, business organizations and the authorities to address these socio-economic disparities and the economy.

Noting the lessening of diplomatic isolation of South Africa, followed by more integration of its trade into world trade and a significant increase in cultural and sports links, the Special Committee cautioned that apartheid "is not yet a closed page", that it would be eradicated "only when a new constitution has been adopted and a new government installed as a result of free and fair elections based on the constitution".

The Special Committee then recommended to the General Assembly to urge the South African authorities to exercise their primary responsibility for ending the violence, to call on all signatories to the National Peace Accord to recommit themselves to the process of peaceful change, to call on the representatives of all South Africans to resume without delay broad-based negotiations on transitional arrangements and to reach an agreement on a new constitution. The Assembly should also call upon the international community to respect existing measures imposed by the Security Council and support the peace process in South Africa through a phased application of appropriate measures with regard to South Africa, as warranted by ongoing developments. It should also appeal to the international community to increase humanitarian and legal assistance to the victims of apartheid and provide appropriate assistance to help South Africans address the socio-economic problems.

GENERAL ASSEMBLY DELIBERATES ON APARTHEID

The General Assembly's annual discussion of "Policies of apartheid of the Government of South Africa" took place from 17 to 19 November 1992. In 1989 the General Assembly had adopted by consensus the United Nations Declaration on South Africa,[6] which urged the political parties concerned to "negotiate the future of their country and its people in good faith and in an atmosphere which, by mutual agreement between the liberation movements and the South African regime, should be free of violence". That atmosphere has been marred by the violence that is escalating, and the negotiating process has been adversely affected.

Sixty delegations addressed the 1992 general debate of the Assembly. The United Kingdom spoke on behalf of the European Community twelve, Norway for the Nordic countries, Trinidad and Tobago for the twelve Caribbean States. The general trend and key themes of the debate were the need to stem the political violence and urgently to resume constitutional negotiations and the need for the international community to support this process and to assist South Africa in addressing its socio-economic problems. Additional emphasis was given to the continued role of the United Nations in resolving the apartheid question. In this respect, most Member States welcomed the role of the Secretary-General, the Security Council, UNOMSA and other United Nations agencies.

At the end of its deliberations on the item, the General Assembly adopted seven resolutions on apartheid. For the first time in the United Nations, the resolution on the Programme of Work of the Special Committee was adopted by consensus, in recognition of its activities and direction. For the third year in a row, consensus was maintained on the omnibus resolution "International efforts towards the total eradication of apartheid and support for the establishment of a united, non-racial and democratic South Africa", in which the recommendations of the Special Committee against Apartheid were adopted. The traditional resolutions on the "United Nations Trust Fund for South Africa" and on the "United Nations Educational and Training Programme for Southern Africa" were also adopted by consensus. Other resolutions adopted were on the oil embargo, the work of the Commission against Apartheid in Sports and relations between South Africa and Israel.

SOCIO-ECONOMIC CONDITIONS IN SOUTH AFRICA

In its annual report, the Special Committee stated that "apartheid has not only bitterly divided a nation but has also resulted in glaring disparities in the socio-economic situation".

Poverty and unemployment, the report disclosed, are affecting many South Africans. An estimated 2.5 million cannot afford to pay for basic nutritional needs. Only 8 per cent of rural Blacks are self-sufficient, while others must rely on remittances from relatives working in the city. By the end of the decade, unemployment is expected to reach 8 million, while the inadequacy of the South African educational and training system would result in a shortage of managers and skilled workers.

Other imbalances also exist, the report continued. In terms of social indicators, such as life expectancy and infant mortality, Black South Africa fared at best only moderately better than its neighbours, despite its proximity to Africa's most dynamic economy. Black education is still affected by insufficient budgetary allocations and a severe shortage of basic materials and qualified teachers. Provision of adequate primary health care for most South Africans continued to be hampered by a serious shortage of funds and the de facto segregation of most medical facilities. Although the Government has recently devoted more resources towards reducing the housing backlog, they are not sufficient to cover the estimated housing needs of 198,000 shelters in the next 10 years, and little progress has been achieved so far in addressing the problem of re-

[6] General Assembly resolution S-16/1 of 14 December 1989.

distribution of land (more than three quarters of which are owned by the White minority).

One of the critical problems, as highlighted by Ambassador Gambari in his statement to the General Assembly, is the needs of the young people in South Africa who have grown up knowing only poverty and deprivation. It is essential that their hopes for and dedication to the future be rekindled through training, empowerment and job placement.

Helping to focus international attention on the requirements of the disadvantaged sectors in South Africa and finding ways and means to address them has become one of the main priorities of the United Nations.

In May 1992, the United Nations Seminar on South Africa's Socio-Economic Problems and the Future Role of the United Nations System in Helping to Address Them was organized by the Special Committee and held in Windhoek.

The Follow-Up Conference on International Educational Assistance to Disadvantaged South Africans, organized by the United Nations Educational and Training Programme for Southern Africa and its Advisory Committee, was held at Headquarters, New York on 8 and 9 September 1992.

The General Assembly, in its omnibus resolution, appealed to the international community to increase "its material, financial and other assistance to South Africans in their efforts to address the serious socio-economic problems of the disadvantaged people of South Africa, particularly in the areas of education, employment, health and housing".

In the words of Ambassador Gambari, "Just as domestic peace and a new non-racial constitutional order are the necessary requirements for the economic and social uplifting of all, there can be no lasting and viable democracy without a sound economy and a stable society."

RESOLUTION 765 (1992)

Adopted by the Security Council on 16 July 1992

The Security Council,

Recalling its resolutions 392 (1976), 473 (1980), 554 (1984) and 556 (1984),

Gravely concerned by the escalating violence in South Africa, which is causing a heavy loss of human life, and by its consequences for the peaceful negotiations aimed at creating a democratic, non-racial and united South Africa,

Concerned that the continuation of this situation would seriously jeopardize peace and security in the region,

Recalling the consensus Declaration on Apartheid and its Destructive Consequences in Southern Africa adopted by the General Assembly at its sixteenth special session on 14 December 1989, which called for negotiations in South Africa to take place in a climate free of violence,

Emphasizing the responsibility of the South African authorities to take all necessary measures to stop immediately the violence and protect the life and property of all South Africans,

Emphasizing also the need for all parties to cooperate in combating violence and to exercise restraint,

Concerned at the break in the negotiating process and determined to help the people of South Africa in their legitimate struggle for a non-racial, democratic society,

1. ***Condemns*** the escalating violence in South Africa and in particular the massacre in Boipatong township on 17 June 1992, as well as subsequent incidents of violence including the shooting of unarmed protesters;

2. ***Strongly urges*** the South African authorities to take immediate measures to bring an effective end to the ongoing violence and to bring those responsible to justice;

3. ***Calls upon*** all the parties to cooperate in combating violence and to ensure the effective implementation of the National Peace Accord;

4. ***Invites*** the Secretary-General to appoint, as a matter of urgency, a Special Representative in order to recommend, after, *inter alia*, discussion with the parties, measures which would assist in bringing an effective end to the violence and in creating conditions for negotiations leading towards a peaceful transition to a democratic, non-racial and united South Africa, and to submit a report to the Security Council as early as possible;

5. ***Urges*** all parties to cooperate with the Special Representative of the Secretary-General in carrying out his mandate, and to remove the obstacles to the resumption of negotiations;

6. ***Underlines,*** in this regard, the importance of all parties cooperating in the resumption of the negotiating process as speedily as possible;

7. ***Urges*** the international community to maintain the existing measures imposed by the Security Council for the purpose of bringing an early end to apartheid in South Africa;

8. ***Decides*** to remain seized of the matter until a democratic, non-racial and united South Africa is established.

RESOLUTION 772 (1992)

Adopted by the Security Council at its 3117th meeting, on 17 August 1992

The Security Council,

Reaffirming its resolution 765 (1992) of 16 July 1992,

Having considered the report of the Secretary-General on the question of South Africa (S/24389),

Determined to help the people of South Africa in their legitimate struggle for a non-racial, democratic society,

Cognizant of the expectations of the people of South Africa that the United Nations will assist with regard to the removal of all obstacles to the resumption of the process of negotiations,

Bearing in mind the areas of concern relevant to the question of violence in South Africa, including the issues of the hostels, dangerous weapons, the role of the security forces and other armed formations, the investigation and prosecution of criminal conduct, mass demonstrations and the conduct of political parties,

Further bearing in mind the need to strengthen and reinforce the indigenous mechanisms set up under the National Peace Accord, so as to enhance their capacity in the building of peace, both in the present and in the future,

Determined to assist the people of South Africa to end violence, the continuation of which would seriously jeopardize peace and security in the region,

Underlining, in this regard, the importance of all parties cooperating in the resumption of the negotiating process as speedily as possible,

1. ***Welcomes*** with appreciation the report of the Secretary-General of 7 August 1992 (S/24389);

2. ***Expresses*** its appreciation to all relevant parties in South Africa for the cooperation they extended to the Special Representative of the Secretary-General;

3. ***Calls upon*** the South African Government and all parties in South Africa to implement urgently the relevant recommendations of the Secretary-General contained in his report;

4. ***Authorizes*** the Secretary-General to deploy, as a matter of urgency, United Nations observers in South Africa, in such a manner and in such numbers as he determines necessary to address effectively the areas of concern noted in his report, in coordination with the structures set up under the National Peace Accord;

5. ***Invites*** the Secretary-General to assist in the strengthening of the structures set up under the National Peace Accord in consultation with the relevant parties;

6. ***Requests*** the Secretary-General to report to the Security Council quarterly, or more frequently if necessary, on the implementation of the present resolution;

7. ***Calls*** on the Government of South Africa, parties and organizations, and the structures set up under the National Peace Accord, to extend their full cooperation to the United Nations observers to enable them to carry out their tasks effectively;

8. ***Invites*** international organizations such as the Organization of African Unity, the Commonwealth and the European Community to consider deploying their own observers in South Africa in coordination with the United Nations and the structures set up under the National Peace Accord;

9. ***Decides*** to remain seized of the matter until a democratic, non-racial and united South Africa is established.

JOINT STATEMENT AND RECORD OF UNDERSTANDING:

PRESIDENT F. W. DE KLERK AND MR. NELSON MANDELA, 26 SEPTEMBER 1992

1. The attached Record of Understanding was agreed to.

2. On the way forward—

► The two delegations agreed that this summit has laid a basis for the resumption of the negotiation process.

► To this end the ANC delegation advised the South African Government that it would recommend to its National Executive Committee that the process of negotiation be resumed, whereafter extensive bilateral discussions will be held.

► It was agreed that the practicalities with regard to bilateral discussions will be dealt with through the existing channel.

RECORD OF UNDERSTANDING

1. Since 21 August 1992 a series of meetings was held between Mr. Roelf Meyer, Minister of Constitutional Development and Mr. Cyril Ramaphosa, Secretary General of the African National Congress. These meetings entailed discussions with a view to remove obstacles towards the resumption of negotiations and focused on the identification of steps to be taken to address issued raised in earlier memoranda. The discussions took note of various opposing viewpoints on the relevant issues and obstacles. It was decided that these issues should not be dealt with exhaustively in the Understanding. This document reflects the understanding reached at the conclusion of the discussions regarding these obstacles and issues.

2. The Understanding on issues and obstacles included the following, although it was observed that there are still other important matters that will receive attention during the process of negotiation:

a. The Government and the ANC agreed that there is a need for a democratic constituent assembly/constitution-making body and that for such a body to be democratic it must:

► be democratically elected;

► draft and adopt the new constitution, implying that it should sit as a single chamber;

► be bound only by agreed constitutional principles;

► have a fixed time-frame;

► have adequate deadlock breaking mechanisms;

► function democratically, i.e. arrive at its decisions democratically with certain agreed-to majorities; and

► be elected within an agreed predetermined time period.

Within the framework of these principles, details would have to be worked out in the negotiation process.

b. The Government and the ANC agreed that during the interim/transitional period there shall be constitutional continuity and no constitutional hiatus. In consideration of this principle, it was further agreed that:

► the constitution-making body/constituent assembly shall also act as the interim/transitional Parliament;

► there shall be an interim/transitional government of national unity;

► the constitution-making body/constituent assembly cum interim/transitional Parliament and the interim/transitional government of national unity shall function within a constitutional framework/transitional constitution which shall provide for national and regional government during the period of transition and shall incorporate guaranteed justiciable fundamental rights and freedoms. The interim/transitional Parliament may function as a one or two-chambered body.

c. The two parties are agreed that all prisoners whose imprisonment is related to political conflict of the past and whose release can make a contribution to reconciliation should be released. The Government and the ANC agreed that the release of prisoners, namely, those who according to the ANC fall within the guidelines defining political offences, but according to the Government do not, and who have committed offences with a political motive on or before 8 October 1990 shall be carried out in stages (as reflected in a separate document: Implementation Programme: Release

of Prisoners) and be completed before 15 November 1992. To this end the parties have commenced a process of identification. It is the Government's position that all who have committed similar offences but who have not been charged and sentenced should be dealt with on the same basis. On this question no understanding could be reached as yet and it was agreed that the matter will receive further attention.

As the process of identification proceeds, releases shall be effected in the above-mentioned, staged manner. Should it be found that the current executive powers of the State do not enable it to give effect to specific releases arising from the above identification the necessary legislation shall be enacted.

d. The Goldstone Commission has given further attention to hostels and brought out an urgent report on certain matters and developments in this regard. The Commission indicated that the problem is one of criminality and that it will have to investigate which localities are affected.

In the meantime some problematic hostels have been identified and the Government has undertaken as a matter of urgency to address and deal with the problem in relation to those hostels that have been associated with violence. Further measures will be taken, including fencing and policing to prevent criminality by hostel dwellers and to protect hostel dwellers against external aggression. A separate document (Implementation Programme: Hostels) records the identification of such hostels and the security measures to be taken in these instances.

Progress will be reported to the Goldstone Commission and the National Peace Secretariat. United Nations observers may witness the progress in cooperation with the Goldstone Commission and the National Peace Secretariat.

e. In the present volatile atmosphere of violence, the public display and carrying of dangerous weapons provokes further tension and should be prohibited. The Government has informed the ANC that it will issue a proclamation within weeks to prohibit countrywide the carrying and display of dangerous weapons at all public occasions subject to exemptions based on guidelines being prepared by the Goldstone Commission.

The granting of exemptions shall be entrusted to one or more retired judges. On this basis, the terms of the proclamation and mechanism for exemption shall be prepared with the assistance of the Goldstone Commission.

f. The Government acknowledges the right of all parties and organizations to participate in peaceful mass action in accordance with the provisions of the National Peace Accord and the Goldstone Commission's recommendations. The ANC for its part reaffirms its commitment to the provisions of the Code of Conduct for Political Parties arrived at under the National Peace Accord and the agreement reached on 16 July 1992 under the auspices of the Goldstone Commission as important instruments to ensure democratic political activity in a climate of free political participation.

The two parties also commit themselves to the strengthening of the Peace Accord process, to do everything in their power to calm down tensions and to finding ways and means of promoting reconciliation in South Africa.

In view of the progress made in this summit and the progress we are likely to make when negotiations are resumed, the ANC expressed its intention to consult its constituency on a basis of urgency with a view to examine the current programme of mass action.

3. The two parties agreed to hold further meetings in order to address and finalize the following matters which were not completed at the summit:

- Climate of free political activity.
- Repressive/security legislation.
- Covert operations and special forces.
- Violence.

Agreed at Johannesburg on 26 September 1992:

F. W. de Klerk
State President

N. R. Mandela
President: ANC

ANNEX D

JOINT STATEMENT

BY THE REPRESENTATIVES OF THE GOVERNMENT OF SOUTH AFRICA AND THE PAN-AFRICANIST CONGRESS OF AZANIA, ISSUED AT GABORONE, BOTSWANA, ON 24 OCTOBER 1992

1. The aim of the Gaborone meeting was to pave the way for fully representative negotiations and to address, among other things, ways and means to end violence in South Africa.

2. The delegations have discussed these aims under the following items with a view to reporting back respectively to the South African Government and the National Executive Council of the Pan-Africanist Congress of Azania:

2.1 A more representative forum;

2.2 Constituent Assembly/Constitution-making body;

2.3 Transitional arrangements;

2.4 Violence;

2.5 Attacks on Security Forces;

2.6 Future meetings.

3. Following substantive discussions on the above items, common ground between the parties exists on the following points:

3.1 The political conflict in our country should be resolved through peaceful negotiations;

3.2 Maximum efforts should be exerted by all parties to bring an end to violence in the country;

3.3 South Africa needs a new non-racial democratic constitution to be drawn up by a body elected on a common voters roll. The principles guiding such a body shall be decided upon by a more representative negotiating forum;

3.4 The urgent need to establish a more representative negotiating forum. This forum should be as inclusive as possible and should be managed impartially;

3.5 The negotiating forum should decide on transitional arrangements leading to the attainment of a new constitution;

3.6 Constitutionality should be maintained during the transitional period;

3.7 Peaceful negotiations and free and fair elections require a commitment by all participants to adhere to peaceful political activities and to refrain from inflammatory statements;

3.8 Negotiations will continue in the near future between the two parties, particularly on the subject of a more representative negotiating forum.

4. The discussions were cordial and were characterized by mutual understanding of each other's viewpoints. Substantial progress was made in identifying common ground in respect of important elements of the negotiating process.

5. Both parties wish to express their sincere appreciation to the Government of Botswana for its hospitality and for the facilities provided. A special word of thanks was conveyed to Dr. G. K. T. Chiepe, Minister for Foreign Affairs of Botswana, who hosted and chaired the meeting.

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